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## **OLR Bill Analysis**

### **sHB 5140**

#### ***AN ACT CONCERNING PAYMENT OF INSURANCE SETTLEMENT PROCEEDS TO AN INSURED BY A MORTGAGE HOLDER.***

#### **SUMMARY:**

This bill, under certain circumstances, bars a residential mortgage holder or servicer from unreasonably withholding payment or endorsement of a payment to a borrower under an insurance policy claims payment. The bill does not (1) affect any contractual rights of a mortgage owner or servicer or (2) prohibit or prevent a mortgage owner or servicer from disbursing partial payments to a borrower of the insurance settlement proceeds as repairs are completed and sufficient collateral value is restored to the residential property.

EFFECTIVE DATE: October 1, 2012

#### **CIRCUMSTANCES WHEN THE BILL APPLIES**

The bill's prohibition applies when the:

1. insurance company is making the payment for a covered claim and the joint payees named on the payment form are the borrower and the mortgage owner or servicer;
2. borrower has provided the mortgage owner or servicer with the information, documents, and agreements it reasonably requests to allow it to evaluate and manage the risks associated with the covered loss, including information about the property, loss, insurance claim and cost, and value and feasibility of any proposed repairs;
3. borrower has satisfied any reasonable conditions the mortgage owner or servicer may establish to protect its interest in the property and its ability to recover the mortgage debt, including completion of any reasonably required repairs; and

4. borrower has provided the mortgage owner or servicer with a reasonable opportunity to verify that (a) the conditions described above have been satisfied, including inspection of the property and of any required repairs and (b) the property has sufficient collateral value to support the release of the insurance settlement proceeds.

Under the bill, a mortgage owner or servicer has not unreasonably withheld a payment or endorsement if it:

1. provides the payment or endorsement to the borrower within 10 business days after he or she satisfies the bill's requirements;
2. does not specify or establish any conditions or requirements under these provisions within 10 business days after it receives the insurance settlement proceeds and provides the payment or endorsement to the borrower within the 10-day period;
3. withholds payment or endorsement because, in its reasonable judgment, making the payment or endorsement will impair or jeopardize its ability to recover the mortgage debt; or
4. withholds payment or endorsement because the borrower is in default of the residential mortgage loan.

## **BACKGROUND**

### ***Legislative History***

The House referred this bill (File 52) to the Banks Committee, which reported a substitute that:

1. limits the bill to owners and servicers of residential mortgages, rather than mortgage lenders, correspondent lender, broker, and loan originators with regard to all mortgages;
2. expands the conditions that must exist in order for the prohibition to apply; and
3. adds the provisions on contractual rights and partial payments.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 14 Nay 4 (03/08/2012)

Banks Committee

Joint Favorable Substitute

Yea 14 Nay 0 (04/03/2012)